Guide to Rural Land Use Bylaws

IMPLEMENTING BILL 62

Ministry of Municipal Affairs and Transit
HON. RITA M. JOHNSTON, MINISTER

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GUIDE TO

RURAL LAND USE BYLAWS

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TABLE OF CONTENTS

		Page
A.	**WHAT IS A RURAL LAND USE BYLAW**	**2**
	1. Rural Land Use Bylaws: Concepts and Principles	2
	2. Legislative Authority	3
B.	**WHAT AREAS ARE SUITABLE FOR A RURAL LAND USE BYLAW?**	**5**
C.	**AN EXAMPLE OF A RURAL LAND USE BYLAW**	**8**
D.	**ADDITIONAL POWERS AND PETITIONS**	**33**
	1. Other Regulations in a Rural Planning Area	33
	2. Petitions	34
E.	**PROCEDURES FOR DEVELOPING AND ADOPTING RURAL LAND USE BYLAWS**	**35**
	1. Decision to Prepare a Rural Land Use Bylaw in a Regional District, or to Undertake a Major Amendment to a Rural Land Use Bylaw	35
	2. Designation of a Rural Planning Area	35
	3. Notification of Provincial Agencies	36
	4. Designation of the Rural Planning Area by the Minister	38
	5. Bylaw Preparation	38
	6. Examination, Referral and Confirmation	39
	7. Public Hearing	41
	8. Finalizing the Bylaw	41
	9. Submission for Ministerial Approval	42
	10. Ministerial Approval	42
	11. Adoption	42
	FLOWCHART	43
F.	**MINISTERIAL APPROVAL OF RURAL LAND USE BYLAWS**	**44**
	1. Provincial Interest in Rural Land Use Bylaws	44
	2. Local Interest	45
	3. Approval Considerations	45
	4. Conclusion	47
	APPENDIX A	48

A GUIDE TO RURAL LAND USE BYLAWS

In December 1985, the Municipal Amendment Act, 1985 (Bill 62) was enacted. This Act introduced a new planning and land use management tool called the Rural Land Use Bylaw. The purpose of this guide is to assist Regional Districts to prepare rural land use bylaws by explaining the intent of the legislation and by illustrating its application to a hypothetical area in British Columbia. The guide will also be of assistance to Provincial agencies who may participate in the preparation and review of new rural land use bylaws.

The guide is structured into the following sections:

PART A WHAT IS A RURAL LAND USE BYLAW?

PART B WHAT AREAS ARE SUITABLE FOR A RURAL LAND USE BYLAW?

PART C AN EXAMPLE OF A RURAL LAND USE BYLAW

PART D ADDITIONAL POWERS AND PETITIONS

PART E PROCEDURES FOR THE PREPARATION OF A RURAL LAND USE BYLAW

PART F MINISTERIAL APPROVAL OF RURAL LAND USE BYLAWS

This guide is an interpretation of the intent of the legislation. Nothing in this publication is to be construed as a guarantee of legal certainty.

For further information and assistance, please contact the Development Services Branch of the Ministry of Municipal Affairs and Transit.

A. WHAT IS A RURAL LAND USE BYLAW?

1. Rural Land Use Bylaws: Concept and Principles

Division (2) of Part 29 was added to the Municipal Act to provide a more flexible, less regulatory approach to planning in rural areas. Prior to the enactment of Bill 62, Regional Districts had three choices for planning in rural areas:

(a) An official settlement plan followed by a zoning bylaw and a subdivision bylaw or reliance on the Local Services Act Subdivision Regulations, or

(b) A zoning bylaw along with a subdivision bylaw or reliance on the Local Services Act Subdivision Regulations, or

(c) No land use control at all by the regional district in which case the Local Services Act Subdivision Regulations would apply.

The first option was often perceived by the development community and the general public to be unnecessarily cumbersome: often a simple land use change required an amendment to both the official community plan and the zoning bylaw. The need for three separate bylaws was questioned in less complex rural areas. The public sometimes failed to understand the difference between the official community plan bylaw and the other two regulatory bylaws and indeed, the differences between the three bylaws were often hard to distinguish.

The second option, while simpler in terms of the number of regulatory documents, failed to provide any long range planning context in which to evaluate development proposals. The zoning bylaw served only to fix the status quo: future uses were left without guidance.

The third and final option is valid only for areas where there is little human settlement and little likelihood of any.

Thus, the rural land use bylaw concept was developed to allow Regional Districts to plan for their rural areas in a more straight-forward way. Integral to this new concept are the following principles:

(a) A Single Bylaw

A single, simple bylaw providing objectives, policy and regulation for future and existing uses is adequate for many rural areas.

(b) One Set of Land Use Designations

One set of designations (and therefore one designation map) is simpler to understand than the two step concept of plan designation and land use zone. A single designation is adequate in areas which are uncomplicated and not under a lot of pressure for change to higher densities.

(c) Broad Land Use Categories

Rural areas do not need a highly segregated land use zoning system. Rural areas are characterized by the usually happy coexistance of different uses on the same or adjacent sites. When parcel sizes are large and intensity of use is low, conflicts between uses are reduced. Broad land use designations provide greater flexibility to respond to local initiatives.

(d) Simplified Regulation

Rural areas and rural uses do not need complex regulation. Basic regulations on such things as parcel size, servicing standards, and siting are sufficient regulation for many rural areas.

2. Legislative Authority

Division (2) of Part 29 of the Municipal Act provides the legislative authority for the preparation and adoption of rural land use bylaws.

- Section 950 authorizes the preparation of rural land use bylaws in areas designated as a rural planning area in unicorporated portions of a Regional District. Part B of this guide discusses suitable areas for the enactment of rural land use bylaws.

- Section 951 allows the electors of an area in a Regional District to petition the Minister on the matter of rural land use bylaws.

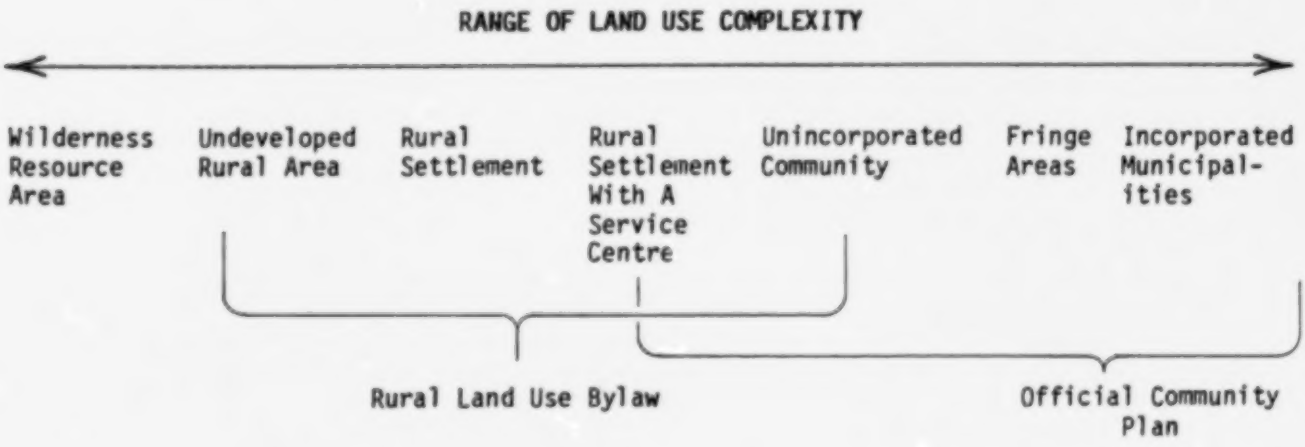
- Section 952 sets out the content of a rural land use bylaw. It also establishes that Part 1 of a rural land use bylaw has the same effect as an official community plan and that Part 2 has the same effect as a zoning bylaw or subdivision servicing bylaw.

- Section 953 stipulates that a rural land use bylaw must be adopted initially according to the adoption procedures for an official community plan, but that Part 2 of the bylaw may be amended as if it were a zoning bylaw. Procedures for the preparation and adoption of rural land use bylaws and amendments to them are the subject of Part E of this guide.

B. WHAT AREAS ARE SUITABLE FOR A RURAL LAND USE BYLAW?

The dictionary defines rural "as open land; or of relating to the country, country people or life, or agriculture". Unfortunately, defining "rural" for the purposes of a rural land use bylaw is not quite so simple.

There is no single definition that can be applied to all the rural areas in British Columbia. It is perhaps easiest to understand what types of rural areas exist if we consider settlement in terms of a continuum running from undeveloped wilderness, or resource, areas to incorporated urban communities.



Rural areas differ from one another according to a number of factors resulting in differing servicing and regulatory needs. The most significant factors appear to be:

- the range of land use types;
- the presence of or extent of sewer and water services;
- population levels and densities;
- presence or absence of growth pressures.

The different types of rural areas can be further described as follows:

	CHARACTERISTICS
UNDEVELOPED RURAL	- limited range of land uses - low population, low density - low growth pressure - extensive land areas used primarily for forestry, fishing, agriculture, backcountry recreation, etc. - no sewer or water services
RURAL SETTLEMENT	- limited variety of land uses including some rural commercial and industrial uses - more heavily settled, some established pattern of settlement - may share some in-ground services - a very small node with a concentration of population, but generally fairly dispersed - little or variable growth pressure
RURAL SETTLEMENT WITH A SERVICE CENTRE	- at least one node providing rural services and a mixture of commercial, retail, industrial, residential - in addition to dispersed setttlement there may be multiple settlement concentrations on water (e.g., Improvement Districts) - some growth pressure
UNINCORPORATED COMMUNITY	- basically a "village" in all but name - not associated with a "parent" community - may have medium to high growth pressure - probably has community water and may have sewer
FRINGE AREA	- adjoins a "parent" community - experiencing high growth pressure - services are extendable from an adjoining or "parent" community - greater variety of land uses

It is anticipated that rural land use bylaws might be suitable for undeveloped rural areas, rural settlements, rural settlements with a service centre and some, but not all, unincorporated communities. Rural land use bylaws would not be suitable for fringe areas and unincorporated communities experiencing growth pressure and/or with existing or proposed sewer services. Rural land use bylaws cannot be used in areas where development permits are to be required.

In determining whether or not to proceed with a rural land use bylaw, as opposed to the conventional official community plan and regulatory bylaws, the following criteria should, for the most part, be met:

1. Limited range of land uses.

2. Mixing of different types of land use in same area (for example, commercial and residential, industrial and residential). Little community desire for greater separation.

3. Little or no growth pressure.

4. Limited services, no community sewer existing or planned.

5. Little desire on the part of residents for development controls.

6. No need to use development permits (Section 976 of the Municipal Act) to achieve goals related to heritage preservation, commercial revitalization, or the aesthetic considerations of commercial, industrial and multi-family developments.

C. AN EXAMPLE OF A RURAL LAND USE BYLAW

This section of the guide illustrates a rural land use bylaw for the hypothetical rural planning area of Happy Valley, B.C.

This example incorporates the principles of a rural land use bylaw described above, namely:

- one set of designations,
- small number of designations,
- broad range of uses permitted in each designation,
- simplified regulation.

The Happy Valley Rural Land Use Bylaw follows the content requirements of Section 952 of the Municipal Act: Part 1 of the Bylaw is concerned with the broad objectives and policies of the Board for present and proposed land use in Happy Valley, and Part 2 contains the six land use designations and applicable regulations.

Happy Valley is a rural settlement with a service centre node and is therefore illustrative of a medium-complex rural planning area. Rural land use bylaws for other types of rural planning areas will be more or less complex according to the particular area concerned. The Happy Valley Rural Land Use Bylaw is intended to be an example, not a model. It is likely that rural land use bylaws will differ from one another almost as greatly as official settlement plans did in the past.

Please note that strict adherence to the Happy Valley example is not a guarantee of legal acceptability. As with all bylaws, local governments should consult their solicitors for legal advice.

HAPPY VALLEY
RURAL LAND USE BYLAW

Evergreen Regional District
August, 1986

EVERGREEN REGIONAL DISTRICT

BYLAW NO. 1

The Board of the Evergreen Regional District in open meeting assembled, enacts as follows:

TITLE

This Bylaw may be cited as the "Evergreen Regional District Happy Valley Rural Land Use Bylaw, No. 1, 1986".

APPLICATION

1. This Bylaw shall be applicable to that portion of the Evergreen Regional District known as the Happy Valley Rural Planning Area, as designated by the Minister of Municipal Affairs and Transit on December 10, 1985 and as shown by map reference in Schedule "B", which is attached to and forms part of this bylaw.

2. Schedule "A", which is attached to and forms part of this Bylaw is hereby adopted as the Evergreen Regional District Happy Valley Rural Land Use Bylaw.

INTRODUCED AND READ A FIRST TIME THIS 10th day of February, 1986.

READ A SECOND TIME THIS 10th day of March, 1986.

PUBLIC HEARING PURSUANT TO SECTION 956 OF THE MUNICIPAL ACT HELD THIS 10th day of April, 1986.

READ A THIRD TIME THIS 10th day of April, 1986.

RECEIVED APPROVAL PURSUANT TO THE HIGHWAY ACT, THIS 28th day of April, 1986.

RECEIVED APPROVAL OF THE MINISTER OF MUNICIPAL AFFAIRS AND TRANSIT THIS _____ day of _____ 1986.

RECONSIDERED AND FINALLY ADOPTED THIS _____ day of _____ 1986.

_____ CHAIRMAN

_____ SECRETARY

(SCHEDULE "A" TO)
EVERGREEN REGIONAL DISTRICT

BYLAW NO. 1

HAPPY VALLEY
RURAL LAND USE BYLAW

HAPPY VALLEY
RURAL LAND USE BYLAW

TABLE OF CONTENTS

		Page
1.0	Introduction	13
2.0	Application	13
PART I		
3.0	Development, Objectives and Policies	14
4.0	Amendment and Review	19
PART II		
5.0	General Land Use Regulation	20
6.0	Land Use Designations	23
7.0	Administration, Interpretation and Implementation	28

1.0 Introduction

1.1 Purpose

The purpose of this rural land use bylaw is to provide a statement of the objectives, policies and regulations of the Regional District Board respecting present and proposed land use and development in the Happy Valley Rural Planning Area.

1.2 Background

The Happy Valley Rural Planning Area is primarily a rural settlement area with two concentrations of commercial and industrial development, an older one at Blackman Corners, and a new one along Highway 10 between Ribbon Creek and Blackman Road. There are also two existing small lot subdivisions with community water at Uphill and Woodland.

The Happy Valley Rural Planning Study was undertaken in 1985 as background to this rural land use bylaw. This study, prepared in consultation with the Electoral Area A Advisory Planning Commission and the residents of Happy Valley, concluded that settlement growth had reached the point where some planning and land use controls were both necessary and desirable to ensure that the pleasant rural lifestyles enjoyed by residents would be protected and enhanced. At the same time, it was also agreed that it was desirable that new businesses establish in the area and existing commercial and industrial operations continue to expand. The decision to proceed with a rural land use bylaw was based on the desire of Happy Valley residents to achieve both their lifestyle and economic objectives with a minimum of conflict.

The Happy Valley Rural Planning Study contains a full reporting of the process of consultation used to identify issues along with background data on population, existing land uses, and environmental considerations.

2.0 Application

This rural land use bylaw applies to the Happy Valley Rural Planning Area as designated by the Minister of Municipal Affairs and Transit and as shown on Schedule B which is attached to and forms part of the Evergreen Regional District Happy Valley Rural Land Use Bylaw, No. 1.

PART I

3.0 Development Objectives and Policies

In preparing this rural land use bylaw, the Regional District, in consultation with area residents and Provincial ministries, identified a number of land use issues and through analysis, developed objectives, policies and regulations to resolve these issues.

3.1 Objectives

The following objectives set the context for the land use regulations and land use designations contained in Part 2 of this bylaw.

It is the objective of the Regional District Board to:

(1) Preserve and enhance the rural character of the Happy Valley area;

(2) Accommodate new rural residential, commercial and industrial development in a manner that will not intrude upon the established rural lifestyle;

(3) Provide for a variety of rural lifestyles to meet the needs of area residents;

(4) Encourage the establishment and growth of economic enterprises which are compatible with the rural lifestyle;

(5) Promote public health and safety and to protect the general public by limiting development in areas known or suspected to have hazardous conditions;

(6) Regulate land use in a manner consistent with the rural character of the area and in a manner which provides flexibility for decision-makers and property owners;

(7) Encourage the preservation of the natural resources of the area for resource development, including agriculture, forestry, fish and wildlife habitat, and recreation.

3.2 Policies

3.2.1 Land Use Designations

Part 2 of this rural land use bylaw divides the lands within the Happy Valley Rural Planning Area into the following seven designations:

Serviced Settlement 1
Serviced Settlement 2
Rural Residential
Rural
Service Commercial
Industrial
Heavy Industrial
Sensitive Environment

3.2.2 Serviced Settlement

(1) The Serviced Settlement designations apply to those lands serviced by community water.

(2) The Serviced Settlement 1 designation applies to those areas which serve as a rural service centre by providing a combination of commercial, institutional, and residential uses and which are serviced by a community water system. Blackman's Corner is designated Serviced Settlement 1.

(3) The Serviced Settlement 2 designation applies only to existing small lot residential subdivisions serviced by a community water system. The existing subdivisions of Uphill and Woodland are so designated.

(4) Infilling shall be encouraged within Blackman's Corner before extensions to this designation or new Serviced Settlement 1 designations are considered. Infilling in the Woodland and Uphill subdivisions will be encouraged.

(5) All new developments shall be connected to the community water system.

(6) Applications for redesignation to SS1 shall be evaluated according to the following criteria:

(i) community water is available;
(ii) adequate off-street parking can be provided for commercial and light industrial uses;

(iii) the development would not negatively affect established rural residential uses and/or agricultural operations.

(7) Expansion or extension of the SS2 designation is not encouraged as this density is considered incompatible with the rural character of Happy Valley. No new SS2 areas will be created within the term of this Rural Land Use Bylaw.

3.2.3 Rural Residential

(1) The Rural Residential designation applies to existing rural residential developments and areas which are suitable for new rural residential development.

(2) It is intended that further rural residential development occur as demand warrants in those areas so designated.

Applications for redesignation to Rural Residential shall be evaluated according to the following criteria:

(i) Soils are suitable for septic tank disposal on lots 2 ha or larger;

(ii) Development would not negatively impact established agricultural operations or present or future use of the resource base;

(iii) Extension or addition to Regional District services would not be required.

(3) No community water services shall be extended into areas designated as Rural Residential.

3.2.4 Rural

(1) The Rural designation includes primarily large parcels of land, both private and Crown owned, which are being held for or actively used for agriculture, forestry, horticulture, silviculture, or mineral aggregate extraction, or are environmentally sensitive.

(2) Development in the rural area is to be limited as much as possible to provide for continued agriculture and resource extraction to support the local economy.

(3) No community water services shall be extended into areas designated as Rural.

3.2.5 Service Commercial

(1) The Service Comercial designation applies to areas which presently contain retail, rental, service or wholesale facilities dealing with all forms of merchandise or food, recreation or tourist accommodation uses, or adjoin such areas catering to the travelling public and are suitable for such uses.

(2) Ribbon development along Highway 10 will not be permitted.

(3) Service Commercial uses which cater to the needs of the travelling public will be encouraged to locate in areas designated Service Commercial in proximity to Highway 10.

(4) Applications for redesignation to Service Commercial shall be considered according to the following criteria:

(i) adequate off-street parking and loading can be provided;
(ii) extension of Regional District services is not required;
(iii) the development would not negatively affect established rural residential uses;
(iv) frontage road access is available.

(5) Redesignation shall be considered only in the area adjacent to Highway 10 between Ribbon Creek and Blackman Road unless suitable land is not available within this area.

3.2.6 Industrial

(1) The Industrial designation applies to existing industrial, repair, processing, manufacturing, wholesaling or warehousing uses, and new areas which are suitable for industrial uses and are so designated.

(2) The Heavy Industrial designation applies to storage or terminal facilities for petroleum products, excluding liquified natural gas.

(3) Shoreline sites most suitable for port use shall be reserved for future port development.

(4) Heavy industrial uses shall be restricted to locating in the vicinity of the Catch Point loading docks.

(5) Other lands will be considered for redesignation to Industrial in the Holding Road area provided the following criteria are met:

(i) The area is within easy access of a major local road;

(ii) Industrial traffic through a residential area will not be generated;

(iii) Industrial activity is compatible with the surrounding environment and land use and does not detract significantly from the areas present amenities;

(iv) The site had adequate services (hydro, water supply, sewage disposal area, etc.).

3.2.7 Temporary Commercial and Industrial Uses

For the purposes of Section 952 and 975, the Board hereby designates the area shown on Schedule B for the issuance of temporary industrial use permits for the purpose of portable sawmill operation.

3.2.8 Sensitive Environment and Hazard Lands

(1) Beaches subject to erosion and other environmental degradation are designated Sensitive Environment.

(2) Development on lands known or suspected to be subject to flooding, landslide, avalanche or other hazardous conditions shall be limited, unless protective measures are taken to prevent any detrimental consequences such as damage to property or risks to inhabitants.

(3) Hazardous industries including the transportation, handling, bulk storage and use of liquified natural gax, radioactive materials or other dangerous or toxic materials in bulk are prohibited in the Rural Planning Area.

4.0 Amendment and Review

(1) The rural land use bylaw will be amended as required and will be reviewed in full commencing not later than four years from the date of adoption.

(2) All applications for amendments will be considered on the basis of the redesignation criteria set out in each designation in Section 3 of this bylaw and also giving consideration to the following:

(a) The proposed development satisfies all health and safety requirements;

(b) The proposed development will not detrimentally impact the Regional District's budget for water, sewer, drainage and other services;

(c) The proposed development is not contrary to the 5-year capital budget;

(d) The proposed development is compatible with adjacent uses.

PART II

5.0 General Land Use Regulations

Except as otherwise specified in this bylaw, Sections 5.1 to 5.13 inclusive are applicable throughout all designations in the Happy Valley Rural Planning Area.

5.1 Foreshore Development

(1) No building or part thereof shall be located within 30 metres of the high tide mark of tidal waters.

(2) No foreshore structures such as wharves or bulkheading or protective structures which interrupt the drift sector processes shall be permitted along beaches designated Sensitive Environment.

(3) Log storage, dumping, sorting and related activities are prohibited in all marine waters in the Sensitive Environment designation.

5.2 Floodplain Provisions

(1) Notwithstanding any other provisions of this Bylaw, no building or any part thereof shall be constructed, reconstructed, moved or extended nor shall any mobile home or unit, modular home or structure be located:

(i) Within 30 metres of the natural boundary of the Evergreen River;

Within 15 metres of the natural boundary of Ribbon Creek or any other watercourse;

(ii) With the underside of the floor system of any area used for habitation, business, or storage of goods damageable by floodwaters, or in the case of a mobile home or unit the ground level or top of concrete or asphalt pad on which it is located:

(a) Lower than the Flood Construction Level for the Evergreen River;

(b) Or where it has not been determined, not lower than 3 metres above the natural boundary of the Evergreen River;

(c) Nor lower than 1.5 metres above the natural boundary of Ribbon Creek or any other watercourse.

(iii) The required elevation may be achieved by structural elevation of the said habitable, business, or storage area or by adequately compacted landfill in which any building is to be constructed or mobile home located, or by a combination of structural elevation and landfill.

Where landfill is used to achieve the required elevations above, no portion of the landfill slope shall be closer than the distances in Clause 5.2(1)(i) from the natural boundary, and the face of the landfill slope shall be adequately protected against erosion from floodwaters.

(2) Clause 5.2(1) shall not apply to:

(i) A renovation of an existing building or structure used as a residence that does not involve an addition thereto;

(ii) That portion of a building or structure to be used as a carport or garage.

5.3 Home Occupation

A home occupation including storage of materials and products, shall be enclosed within the interior of a principal building or a permitted accessory building, except where the home occupation is horticultural in nature.

5.4 Mobile Home Parks

Mobile home parks within this Rural Planning Area are subject to the regulations of Bylaw No. 123, Mobile Home Park Bylaw.

5.5 Highways

No building or structure or part thereof shall be located within 30 metres of a controlled access highway as designated pursuant to Section 57(2) of the Highway Act and as shown on Schedule B.

5.6 Uses Permitted in All Designations

(1) The following uses are permitted throughout all designations in the rural plan area:

(i) Home occupation;

(ii) Institutional uses;

(iii) Utilities;

(iv) Parks, open space, golf courses;

(v) Neighbourhood pubs.

(2) Notwithstanding (1) above, Neighbourhood Pubs are subject to the regulations and requirements of the Provincial Liquor Control and Licensing Act.

5.7 Number of Dwelling Units Per Parcel

One dwelling unit shall be permitted on each parcel, except for within the Rural designation, where 2 dwelling units are permitted.

5.8 General Setbacks

All buildings and structures, except fences shall be located no closer than 8 metres from a front parcel line, and 2 metres from side and rear parcel lines, unless otherwise specified in this bylaw.

5.9 Accessory Buildings and Structures

(1) Buildings and structures accessory to principal uses, buildings and structures are permitted in any zone.

(2) No accessory building or structures shall be situated on a parcel unless the principal building, to which the accessory building is incidential, has been erected or will be erected simultaneously with the accessory building on the same parcel.

(3) An accessory building shall not be used as a dwelling except as otherwise provided in this bylaw.

5.10 Road Network Plan

(1) All development and subdivision of land shall respect the Road Network Plan as shown on Schedule B.

(2) Direct access to Highway 10 will be discouraged. The use of frontage road for access will be encouraged.

5.11 Subdivision Regulations

(1) All subdivisions shall comply with the provisions of the Local Services Act and the Subdivision Regulations thereto, the Health Act and Pollution Control Act.

(2) The minimum parcel size for subdivision purposes shall be the minimum parcel size in each land use designation in Sections 6.3 to 6.10 of this plan.

(3) Where land is in the Agricultural Land Reserve, the minimum parcel sizes shall not apply until that land is:

(i) Excluded from the Agricultural Land Reserve, or

(ii) Approved for subdivision within the Agricultural Land Reserve pursuant to the Agricultural Land Commission Act, Regulations thereto, or Orders of the Commission, or

(iii) Exempted by the Agricultural Land Commission Act, Regulations thereto, or Orders of the Commission.

5.12 Sewage Disposal

Every dwelling unit shall be connected to a sewage disposal system approved by the Medical Health Officer or the Ministry of Environment and Parks.

6.0 Land Use Designations

6.1 The Happy Valley Rural Planning Area is divided into the land use designations identified in Column 1 below and each land use designation is briefly described in Column 2. The correct name for each land use designation is that provided in Column 1. The descriptions in Column 2 are for convenience only.

Column 1	Column 2
SS1	Serviced Settlement 1
SS1	Serviced Settlement 2
RR	Rural Residential
R	Rural
SC	Service Commercial
I	Industrial
HI	Heavy Industrial
SE	Sensitive Environment

6.2 Location and Extent of Land Use Designations

(1) The location and extent of land subject to each land use designation is shown on Schedule B to the bylaw.

(2) Where the boundary of the land use designation follows a road allowance, creek or railway right-of-way, the centre line of such allowance, creek or right-of-way shall be the land use designation boundary.

6.3 SS1 - Serviced Settlement 1

6.3.1 The following uses and no others shall be permitted:

Permitted Uses	Minimum Parcel Size	
	With No Services	With Community Water
Single Family Residential	2 ha	.2 ha
Two Family Residential	2 ha	.4 ha
Mobile Home Park	not permitted	.4 ha
Retail Commercial, Office Commercial, Professional Office, Personal Service	2 ha	.1 ha
Light Industrial, Light Manufacturing	.8 ha	.4 ha

6.3.2 General Regulations

(1) Minimum parcel sizes shall only be permitted where sewage effluent may be disposed of by methods approved by the Ministry of Health or other authority having jurisdiction.

(2) No front parcel setback is required for retail commercial, office commercial, professional office or personal service uses.

(3) Off-street parking and loading will be required in accordance with Evergreen Regional District Bylaw No. 125.

6.4 SS2 - Serviced Settlement 2

6.4.1 The following uses and no others shall be permitted:

Permitted Uses	Minimum Parcel Size With Community Water
Single Family Residential	.2 ha
Two Family Residential	.4 ha
Neighbourhood Commercial	.2 ha

6.4.2 All lands designated SS2 shall be provided with community water.

6.5 RR - Rural Residential

The following uses and no others shall be permitted:

Permitted Uses	Minimum Parcel Size
Single and Two-Family Residential, Agriculture, Horticulture, Silviculture, and Neighbourhood Commercial	2 ha

6.6 R - Rural

The following uses and no others shall be permitted:

Permitted Uses	Minimum Parcel Size
Residential, Agriculture, Forestry, Mineral Aggregate Extraction	8 ha
Stables/Kennels/Intensive Agriculture Operations	4 ha
Arenas and Exhibition Grounds	no minimum
Resource-related Retail/ Manufacturing/Processing	no minimum
Commercial/Industrial Storage	no minimum

6.7 SC - Service Commercial

The following uses and no others shall be permitted:

Permitted Uses	Minimum Parcel Size
All retail, rental, service or wholesale uses dealing with all forms of merchandize recreation uses; and tourist accommodation uses. Residential use is permitted as an accessory use.	1 ha

Motels or other tourist accommodation developments larger than 25 units are not permitted in this designation.

6.8 I - Industrial

The following uses and no others shall be permitted:

Permitted Uses	Minimum Parcel Size
Any repair, processing, manufacturing, wholesaling, assembly, storage or warehousing use, but this shall not include abatoirs, manufacture or storage of explosives, petroleum processing or tank farm. Residential use is permitted as an accessory use.	.2 ha

6.9 HI - Heavy Industrial

6.9.1 The following uses and no others shall be permitted:

Permitted Uses	Minimum Parcel Size
Petroleum terminal facilities including storage facilities but excluding liquified natural gas	2 ha

6.9.2 General Regulations

(1) Only uses related to terminal facilities, or storage facilities for petroleum products excluding liquified natural gas shall be permitted.

(2) No secondary processing of any kind is to occur in heavy industrial areas.

6.10 ES - Environmentally Sensitive

The following uses and no others shall be permitted:

Permitted Uses	Minimum Parcel Size
Open Space Recreation	no minimum

(Note: This designation does not apply to private land).

7.0 Administration, Interpretation and Implementation

7.1 Administration and Enforcement

(1) The Board may appoint an officer to administer this bylaw who may enter any building or premises at any reasonable time for the purpose of inspecting activities under the jurisdiction of this bylaw.

(2) Subject to the provisions of Section 970 of the Municipal Act, no building or structure shall be erected, constructed, reconstructed, moved, structurally altered or permit issued contrary to the provisions of this bylaw.

(3) Subject to the provisions of Section 970 of the Municipal Act, no land, including the surface of water shall be used, occupied or subdivided contrary to the provisions of this bylaw.

(4) Any person who violates the provisions of this bylaw is liable on summary conviction to a penalty not exceeding two thousand dollars and costs.

(5) If any section, subsection, sentence, clause or phrase of this bylaw is for any reason held to be invalid by the decision of any Court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder.

7.2 Major New Developments

It is the policy of the Board to consider new developments such as port facilities and resort complexes according to the criteria in Section 6.2. A new land use designation may be created to accommodate such unforeseen developments.

7.3 Interpretation

In the bylaw unless the context otherwise requires:

accessory building means
a building or structure located on a parcel, the use of which is accessory to the principal permitted use of the land, buildings or structures located on the same parcel, and includes buildings or structures used for storage or work space by the occupants of the property, but specifically excludes buildings used for residential use;

accessory to means
combined with but customarily incidental to;

accessory use means
a use combined with but clearly incidental and ancillary to the principal permitted uses of land, buildings or structures located on the same parcel;

agriculture means
growing, rearing, producing or harvesting agricultural crops or livestock and the storage of farm machinery, implements and agricultural supplies, but excludes the processing of the primary agricultural products harvested, reared or produced on that parcel.

church means
an assembly building used for public worship;

community water system means
a system of waterworks which is owned, operated and maintained by an Improvement District, or the Regional District, or which is regulated under the Water Utility Act and amendments thereto;

Designated Flood Level means
the observed or calculated elevation for the designated flood which is a flood, which may occur in any given year, a flood having a 200 year recurrence interval based on a frequency analysis of unregulated historic flood records;

development means
the construction of a building to house a principal use on an existing parcel or the construction of roads and driveways.

dwelling means
a self-contained set of habitable rooms located in principal building containing not more than one set of cooking facilities;

flood construction level means
the Designated Flood Level plus the allowance for freeboard and is used to establish the elevation of the underside of a wooden floor system or top of concrete slab for habitable buildings, or the ground surface elevation or top of concrete or asphalt upon which a mobile home or unit rests;

freeboard means
a vertical distance added to the Designated Floor Level to allow for wave runup, surges, and other open water conditions, as a factor of safety;

front parcel line means
a parcel boundary common to a parcel and a highway other than a lane, provided that where a parcel is contiguous to the intersection of two highways, the front parcel line is the shortest parcel boundary contiguous to a highway other than a lane;

high water mark means
the High Water Mark identified on the plan of subdivision or the plan accompanying the instrument conveying Crown land in fee simple, which plan was most recently filled in a Land Title Office before the adoption of this bylaw;

highway includes
a street, road, lane, bridge, viaduct and any other way open to public use, but does not include a private right-of-way on private property;

home occupation means
an accessory use of a gainful nature carried on within a dwelling or accessory structure by the person or persons residing therein, which use is clearly secondary to the use of the premises for residential purposes and does not change the character thereof;

industry means
processing, fabricating, assembling, storing, transporting, distributing, wholesaling, testing, servicing, repairing or salvaging goods, materials or things;

institution includes
an arena, armoury, cemetery, college, community centre, court of law, fire hall, government office, hospital, library, park, playground, police station, public art gallery, public museum, school, stadium or public swimming pool;

mobile home means
any structure containing one dwelling whether ordinarily equipped with wheels or not, that is designated, constructed or manufactured to be moved from one place to another by being towed or carried

but does not include travel trailers, campers or other vehicles exempt from the provisions of the Mobile Home Act;

mobile home park means
land used or occupied by a person for the purpose of providing space for the accommodation of one or more mobile homes and for imposing a charge or rental for the use of that space;

motel means
a building which contains sleeping units and may contain auxiliary assembly, commerce, entertainment, indoor recreation or restaurant uses and premises licensed to serve alcoholic beverages;

natural boundary means
the visible high water mark of any lake, river, stream or other body of water where the presence and action of water at the time of measurement are so common and usual and so long continued in all ordinary years as to mark upon the soil of the bed of the lake, river, stream or other body of water a character distinct from that of the banks thereof, in respect to vegetation, as well as to the nature of the soil itself. In addition, the best estimate of the edge of dormant or old side channels or marsh areas;

neighbourhood pub means
an establishment operating under a "D" type license issued pursuant to the Liquor Control and Licensing Act and amendments thereto;

parcel means
any lot, block or other area in which land is held or into which it is subdivided including a strata lot under the Condominium Act, but does not include a highway;

principal with respect to a use or building means
primary and chief;

rear parcel line means
the parcel boundary which lies the most opposite to and is not connected to the front parcel line;

residential means
related to occupancy or use of a building or part thereof as a dwelling;

retail means
the sale of goods to the general public;

service station means
premises used principally for the retail sale of motor fuels, lubricating oils and motor vehicle accessories and the servicing of motor vehicles, but not wholesale sales or motor vehicle structural or body repairs or painting;

setback means
the minimum permitted distance required under this bylaw between a building and a specified parcel line;

side parcel line means
a parcel boundary, other than a front or rear parcel line;

structure means
any construction fixed to, supported by or sunk into land or water but not concrete or asphalt paving or similar surfacing of a parcel;

utility means
broadcast transmission, electrical, telephone, sewer or water services established or licensed by a government and does not include oil or gas storage tanks or a public storage and works yard; and

watercourse means
any depression with well defined banks and a bed 0.6 or more below the surrounding land serving to give direction to a current of water at least six months of a year or having a drainage of two square kilometres or more upstream of the point of consideration.

D. ADDITIONAL POWERS AND PETITIONS

1. Other Regulations in a Rural Planning Area

While Section 952 prescribes the regulatory contents of a rural land use bylaw to five subject categories, it is possible to deal with other matters. There are two possible options:

(a) Request permission from the Minister of Municipal Affairs and Transit to address specific items pursuant to Section 952 (1)(b)(vi) or 952(2). For example: height restrictions to provide for fire protection in more densely developed commercial areas.

(b) Adopt other regulations pursuant to other sections of the Municipal Act. Examples of other regulations which can be adopted in a rural planning area are:

. parking	Section 964
. drainage	Section 966
. signs	Section 967
. screening	Section 968

There are two ways to adopt these types of regulations: incorporate them in a rural land use bylaw or adopt them as separate bylaws. If they are incorporated into the rural land use bylaw the title of the bylaw should reflect this. For example, call it the "Happy Valley Rural Land Use Bylaw and Miscellaneous Land Use Regulations" or simply "Happy Valley Land Use Bylaw".

While the above can be addressed in a rural planning area, the following cannot:

(a) Matters which require authority pursuant to Sections 963 (zoning) or 989 (subdivision servicing);

(b) Development permits - Section 976;

(c) Development Cost Charges - Section 983.

Development variance permits (Section 974) can be issued and also temporary commercial and industrial permits (Section 975) provided temporary commercial and industrial uses have been addressed in Part 1 of the rural land use bylaw.

2. Petitions

Section 951 provides for the electors in an area covered by an official community plan in a Regional District to petition the Board to alter the area of application of the plan and replace it with a rural land use bylaw (Section 951(1)(a)).

If the Board fails to act on a petition signed by at least two-thirds of the electors of the area affected within 90 days, or another period specified by the Minister, any one of the petitioners can request the Minister to take action. According to Section 951(4) the Minister can:

(a) Designate a rural planning area and order the Board to prepare a rural land use bylaw, or

(b) Order that the official community plan cease to have effect as of a certain date.

It is expected that for the most part, Regional District Boards will respond to any petitions received from their electors and resolve any disagreements and at the local level about the type and land use control needed in an area without ministerial involvement.

E. PROCEDURES FOR DEVELOPING AND ADOPTING RURAL LAND USE BYLAWS

This section describes the step-by-step procedures to be followed by Regional Districts when preparing a new rural land use bylaw or undertaking a major amendment to an existing plan.[1]

A major amendment to a rural land use bylaw is any amendment which involves:

- o a change in boundaries of the rural planning area;
- o a review, revision, or addition of a major policy area; e.g., agricultural policies, rural residential policies, industrial policies, hazard land policies;
- o a review, revision, or addition to the regulations and/or designations applying to a sub-area of the plan, or any area greater than 40 hectares;
- o creation or deletion of a land use designation.

A flow chart on page 43 shows the sequence of steps described in the procedures below.

1. Decision to Prepare a Rural Land Use Bylaw in a Regional District, or to Undertake a Major Amendment to a Rural Land Use Bylaw

   The first step in the preparation of a new rural land use bylaw in a Regional District occurs when the Board instructs staff to prepare a rural planning area designation request for consideration by the Minister of Municipal Affairs and Transit.

   The first step in undertaking a major amendment is to notify the Ministry of Municipal Affairs and Transit and other Provincial agencies. Notification should include terms of reference for the major amendment. See Step 3 below.

2. Designation of a Rural Planning Area

   Section 950(3) of the Municipal Act requires the Minister of Municipal Affairs and Transit to designate the rural planning area before a Regional District prepares a rural land use bylaw for part of its unincorporated area. The Board must by resolution request the Minister of Municipal Affairs and Transit to designate the rural planning area.

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1 Minor amendments to rural land use bylaws are to be made following the Ministry's Bylaw Referral Procedures (Revised October, 1986).

The Regional District should send the following to the Development Servies Branch of the Ministry of Municipal Affairs and Transit:

(a) **A fully completed Designation Request form; (See Appendix A)**

(b) **A Board resolution requesting the Minister to designate the rural planning area;**

(c) **Two copies of a suitable map on which the boundaries have been clearly marked, and which bear the title "(Name) Rural Planning Area". A suitable map must show legal parcels. Please consult with the Development Services Branch for more information on the type of map required;**

(d) **Any other information which supports the need for a rural land use bylaw in the selected area, including indications of public support where this is available, and comments from provincial agencies.**

Where the Board wishes to address matters not listed in Section 952(1) or which are beyond local authority, as contemplated in Section 952(2), these should be discussed in an accompany letter to the Minister.

Terms of reference may also be provided to assist the Minister in reviewing the designation proposal. Terms of reference will also assist provincial agencies in reviewing boundaries and determining the need for further participation in the planning process.

3. Notification of Provincial Agencies

The Regional District is also required to notify Provincial agencies and adjacent local governments of the proposal to prepare a rural land use bylaw by sending a copy of the designation request (or in the case of a major amendment where there is no designation request, a copy of the terms of reference) to:

(a) Ministry of Agriculture and Fisheries - District Agriculturalist;

(b) Ministry of Agriculture and Fisheries - Farmland Resources Branch, Victoria;

(c) Ministry of Energy, Mines and Petroleum Resources - Land Use Coordinating Office, Victoria;

(d) Ministry of Environment and Parks, Victoria - Manager, Planning and Mine Review Unit, Planning and Assessment Branch;

(e) Ministry of Environment and Parks - Environment Regional Director;

(f) Ministry of Environment and Parks - Parks and Outdoor Recreation Division Regional Director;

(g) Ministry of Forests and Lands - Forest Service District Manager;

(h) Ministry of Forests and Lands - Regional Director, B.C. Lands;

(i) Regional Medical Health Officer;

(j) Ministry of Transportation and Highways - Approving Officer;

(k) The Provincial Agricultural Land Commission, Burnaby;

(l) Any local government adjacent to the proposed planning area.

Once again, in the case of a major amendment where a designation request has not been sent earlier to Municipal Affairs and Transit, the notification must also go to the Development Services Branch.

Notification to provincial agencies should be sent no later than the date the Regional District sends the designation request to the Minister; however, the Ministry encourages earlier notification of provincial agencies so that their support and comments may be used as part of the designation request.

Within 30 calendar days, the agencies are requested to provide the following directly to the Regional District:

(a) Any special considerations which each agency wishes to see addressed by the bylaw,

(b) Any information which the agency thinks may be useful in the preparation of the bylaw, and

(c) Indication as to whether they wish to participate further in the bylaw's preparation, including reviewing drafts of the bylaw.

If an agency has concerns about the boundaries of the proposed rural land use bylaw, these should be brought to the attention of the Development Services Branch and the Regional District as soon as possible.

In the event that an agency has special consideration of an unusual nature or of great importance, the agency should immediately advise the Development Services Branch. The Minister of Municipal Affairs and Transit will then be able to request the Board to address these matters in the bylaw pursuant to Section 952(1)(b)(vi) or 952(2) of the Municipal Act.

4. Designation of the Rural Planning Area by the Minister

The Minister will review the request for designation of a rural planning area and, if she concurs with it, attach a certificate designating the rural planning area to one copy of the map and return this to the Regional District.

If the Minister does not concur with the designation request, Ministry staff will discuss the proposal with the Regional District in order to reach agreement on a suitable boundary.

A decision on designation will be made more quickly if the request from the Regional District is complete and well documented.

At this time, the Minister may also authorize or require the rural land use bylaw to deal with certain matters pursuant to Section 952(1)(a)(vi) or 952(2).

5. Bylaw Preparation

Once the rural planning area has been designated by the Minister of Municipal Affairs and Transit, the Regional District can proceed with the rural land use bylaw.

Regional District staff should prepare the bylaw in consultation with the Advisory Planning Commission, public, Ministry of Municipal Affairs and Transit, and other concerned parties, including provincial agencies which identified interests at Step 3. This can be done via special purpose meetings or referral of drafts of the bylaw to those agencies.

As subsequent drafts of the bylaw are completed, they should be presented to and reviewed by the Advisory Planning Commission, adjacent local governments, and the various Provincial agencies, and also by the wider community through a public participation program.

It is important to note that this is the primary consultation stage for Provincial agencies. The onus is on the Regional District to ensure all interested agencies are given adequate opportunity to review subsequent drafts of the bylaw prior to public hearing. Likewise, Provincial agencies are responsible for ensuring their positions are made known to the Regional District prior to public hearing. In the event of any conflict between Provincial agencies, the Ministry of Municipal Affairs and Transit will seek to resolve the dispute through consultation with the affected parties.

6. Examination, Referral and Confirmation

Section 948 of the Municipal Act requires the Regional District to examine new rural land use bylaws and amendments to Part 1 of an existing rural land use bylaw in conjunction with specified matters and to refer the bylaw to affected local governments between 1st reading and public hearing.

(a) Examination

Pursuant to Section 953(1) and 948 of the Municipal Act, the Board must examine all new rural land use bylaws and amendments to Part 1 in conjunction with their most recent capital expenditure program and any applicable waste management plan or economic strategy plan. The intent of this examination is to ensure consistency between the bylaw, the Regional District's capital expenditure program, and any waste management or economic strategy plan which may affect the rural planning area.

The examination must be done after 1st reading and before public hearing, and the results of this examination must be sent to the Minister before the public hearing. A **Section 948 Submission Form** should be used to submit the required information to the Minister. (See sample in Appendix A.)

Receipt of the **Section 948 Submission Form** by the Ministry will not be acknowledged, but Ministry staff may contact the Regional District if further information is required.

(b) Referral

When the bylaw affects an area of an adjoining municipality or Regional District, the Board must refer the bylaw to the Council or Board of that municipality or Regional District for comment.

Comments received from an adjoining municipality or Regional District within 30 days[2] after the referral must be submitted to the Minister of Municipal Affairs and Transit before the public hearing (Municipal Act, Section 948(b)). Again this requirement only applies to new rural land use bylaws or amendments to Part 1.

A plan or an amendment to a plan can be considered to "affect" an adjoining municipality or Regional District if the area which is the subject of the plan is in general proximity to the adjoining municipality or Regional District, or if the development contemplated by the plan is of such a type and size as to create an impact on the adjoining municipality or Regional District. Examples of such impact are: increased traffic, increased use of recreational facilities, reduction of downstream sewer capacity, and shift in community shopping patterns. Precise definition of "affect" will be arrived at through court decision. The best rule of thumb is to put yourself in the other jurisdiction's position and consider whether your Regional District would want to be advised. When in doubt, a referral makes sense.

(c) Confirmation

Prior to public hearng, the Regional District shall refer the finalized rural land use bylaw to those agencies which participated in the preparation of the plan for confirmation. It is not intended that new Provincial considerations be raised at this time, rather this referral is intended to ensure that Provincial policies and interests identified earlier in the planning process have been reflected

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2 Unlike other references in this guide, the 30 days required for referral are days as defined in the Municipal Act -- i.e., excluding Sundays and holidays. Al other references to days in this guide are "calendar" days -- i.e., no days excluded.

in the bylaw submitted for Provincial approval. A maximum period of 30 calendar days will be provided for the final review of the proposed rural land use bylaw by the regional offices of Provincial agencies. A **Bylaw Referral Form** may be used to facilitate this referral. (See Appendix A.)

If the Regional District wishes, the **Section 948 Submission Form** may be included with the confirmation referral to the Ministry of Municipal Affairs and Transit.

7. Public Hearing

A public hearing is required for all rural land use bylaws. Where Section 948(a) applies, the public hearing cannot be held until at least 30 days after it was referred to the affected municipalities and/or Regional Districts.

It is anticipated that coordination of Provincial concerns with the local concerns will be done prior to public hearing through discussion and consultation. It is possible, however, that new initiatives or concerns from agencies not previously consulted may arise that require some consideration by both the Regional District and the public. The public hearing could provide the forum for that kind of information.

8. Finalizing the Bylaw

Subsequent to the public hearing the Regional District Board will consider the results of the hearing and request any further technical input from its employees or consultants that may have been necessitated by comments made at hearing. Once the Regional District has assured itself that the concerns of the community are accommodated in the draft, the bylaw is then ready to go to third reading.

If there have been any significant changes to the rural land use bylaw as a result of the public hearing, the Regional District must re-submit the amended portions of the bylaw for review by the provincial agencies who previously reviewed it for confirmation. This step will ensure that any changes resulting from the hearing do not conflict with provincial interests.

Subsequent to third reading, the Regional District will submit the rural land use bylaw to the Ministry of Municipal Affairs and Transit for approval.

A **Bylaw Submission Form** is to be completed by the Regional District and submitted with all rural land use bylaws prepared pursuant to these guidelines. A sample copy of the new form is included in Appendix A.

9. Submission for Ministerial Approval

Regional Districts are required to submit the following documentation with all rural land use bylaws in order to obtain the Minister's approval:

(a) 3 original bylaws certified as of third reading;

(b) 1 completed Bylaw Submission Form;

(c) 1 copy of public hearing minutes;

(d) Evidence that the bylaw was referred for confirmation and copies of any comments received (Step 6).

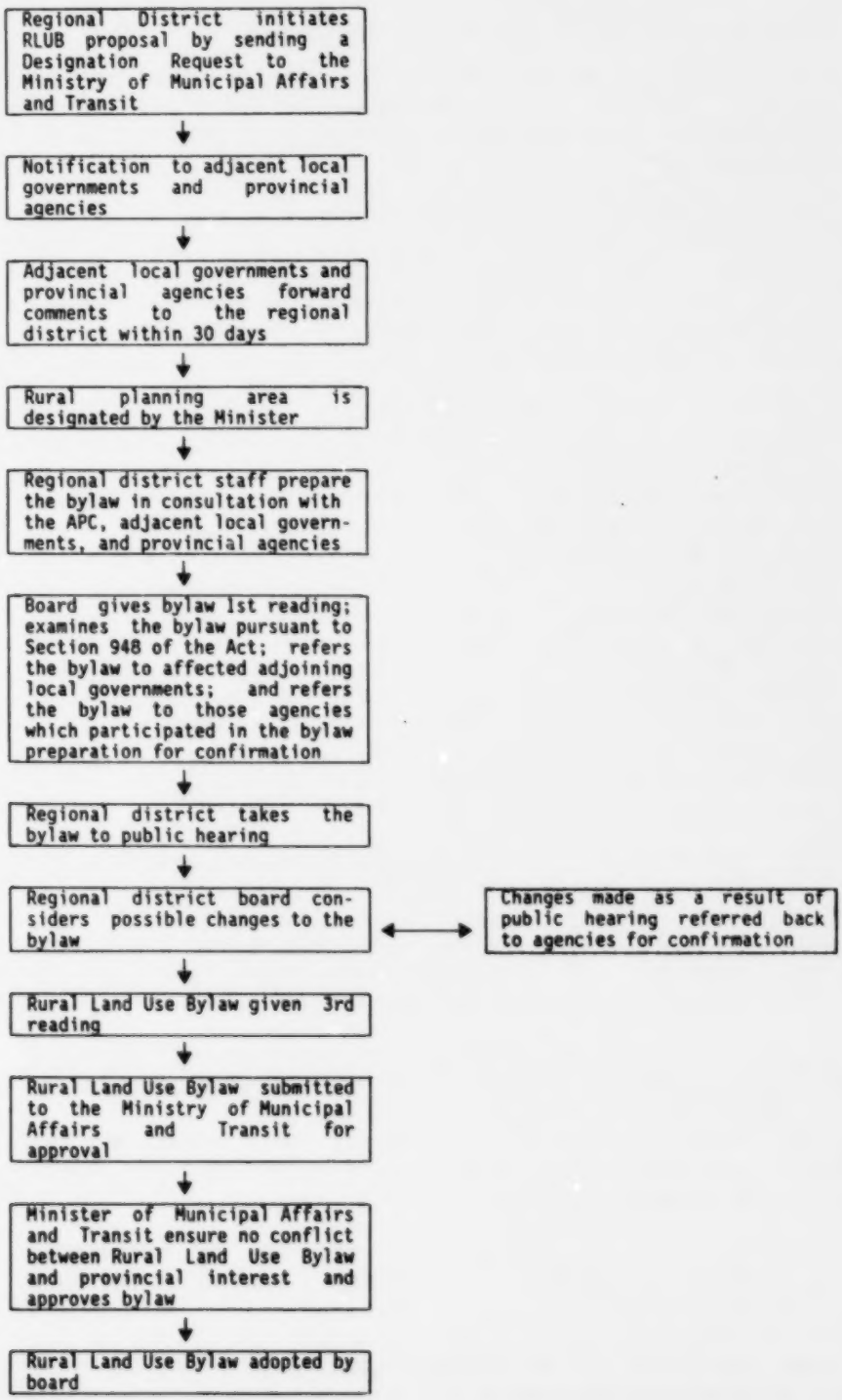
10. Ministerial Approval

Upon receipt of the proposed rural land use bylaw, the Minister of Municipal Affairs and Transit will review it to ensure that it is compatible with objectives and policies of the Provincial government. The process set out in the steps above should ensure that all significant conflicts between the contents of the proposed rural land use bylaw and Provincial objectives and policies will have been resolved. In the rare case where conflicts remain unresolved, they will be referred to the appropriate Ministers or to an inter-ministry staff committee for resolution prior to approval of the bylaw.

11. Adoption

After receiving the aproval of the Minister of Municipal Affairs and Transit, the rural land use bylaw will be returned to the Regional District for reconsideration and adoption by the Regional Board at which time the bylaw, and hence the bylaw takes legal effect.

FLOW CHART FOR RURAL LAND USE BYLAW PREPARATION AND APPROVAL PROCEDURES


Regional District initiates RLUB proposal by sending a Designation Request to the Ministry of Municipal Affairs and Transit
Notification to adjacent local governments and provincial agencies
Adjacent local governments and provincial agencies forward comments to the regional district within 30 days
Rural planning area is designated by the Minister
Regional district staff prepare the bylaw in consultation with the APC, adjacent local governments, and provincial agencies
Board gives bylaw 1st reading; examines the bylaw pursuant to Section 948 of the Act; refers the bylaw to affected adjoining local governments; and refers the bylaw to those agencies which participated in the bylaw preparation for confirmation
Regional district takes the bylaw to public hearing
Regional district board considers possible changes to the bylaw
Changes made as a result of public hearing referred back to agencies for confirmation
Rural Land Use Bylaw given 3rd reading
Rural Land Use Bylaw submitted to the Ministry of Municipal Affairs and Transit for approval
Minister of Municipal Affairs and Transit ensure no conflict between Rural Land Use Bylaw and provincial interest and approves bylaw
Rural Land Use Bylaw adopted by board

F. MINISTERIAL APPROVAL OF RURAL LAND USE BYLAWS

1. Provincial Interest in Rural Land Use Bylaws

Rural land use bylaws submitted to the Minister for her approval pursuant to Section 950 of the Municipal Act are reviewed to ensure they do not conflict with provincial interests.

Areas of provincial interest derive from the historical and evolving powers of the provincial government and the statutory responsibilities of provincial ministries. These include matters related to the Province's financial well-being, and the provision of communications and transportation networks.

The provincial interest in local government planning springs from the need to coordinate local government planning activities with provincial programs and policies. While delegating responsibility for community planning to local government, the Ministry of Municipal Affairs and Transit retains responsibility for assisting local government in carrying out its activities and for ensuring that their plans do not impede, compromise or ignore the **provincial interest.** This is accomplished by staff participation in local government planning activities and by Ministerial review and approval of regional district plans and rural land use bylaws.

In very broad terms, provincial interest in local government planning can be defined as follows:

(a) Achievement of provincial policies and programs for economic, social and physical development.

(b) Efficient movement of people and goods within the official plan area by both public and private transportation facilities.

(c) Protection of the natural environment and the conservation and management of natural resources.

(d) Protection of the financial well-being of the province and the economic health of local government.

(e) Ensuring the coordination of planning activities between adjacent municipalities and regional districts.

(f) Provision of an adequate supply of land to meet projected population and economic growth.

(g) Protection of features of significant natural, architectural, historical and archaeological interest.

2. Local Interest

The recognition of provincial interest implies that there is also something called local interest. The province recognizes that much of the content of rural land use bylaws relates to matters of purely local concern; examples include such matters as the mix of land uses within a given area of a community, local recreation needs and local road patterns. Such matters of local concern are recognized as the responsibility of local governments and it is not the intent of the Ministry of Municipal Affairs and Transit to impose a provincial view on such matters. Ministry staff will be guided by the definition of provincial interest given above when reviewing rural land use bylaws for approval by the Minister and will seek to confirm that the provincial interest has been recognized and safeguarded.

It should be noted, however, that some matters which appear to be purely local concern may become matters of provincial interest. For example, a particular "spot" amendment to a rural land use bylaw may not be of provincial concern, but the cumulative effect of many such amendments might be. Also, individuals and groups may write to the Minister respecting their concerns. It is the Minister's prerogative to consider such matters when reviewing a bylaw for approval.

3. Approval Considerations

Rural land use bylaws submitted for the Minister's approval will be reviewed to deterine their compatibility with provincial interest. The following are the major areas of concern:

(a) A rural land use bylaw must comply with all requirements of the Municipal Act including those in Sections 950 to 953, 948, and 956 to 959.

(b) A rural land use bylaw must not contain any provisions which the Ministry has been advised are not authorized by legislation.

Where the Ministry is aware of a legal decision or has obtained a legal opinion stating that a certain provision or aspect of a rural land use bylaw is not authorized by legislation, the regional district will be advised that the bylaw cannot be approved.

Where the Ministry has not obtained a legal opinion, or where no legal decision has been given, the Ministry will recomend that the local government obtain a legal opinion on any matter the Ministry considers to be of doubtful legality. The decision to proceed with the bylaw as is, or to amend it, then rests with the local government. The Ministry's concern here is to ensure the local government is aware of any legal ramifications of the bylaw and its policies.

(c) A rural land use bylaw must not attempt to deal with matter of provincial authority or be contrary to provincial policy or provincial interest.

Section 952(2) of the Municipal Act prohibits a rural land use bylaw from containing policies on matters that are beyond the jurisdiction of local government. Only broad objectives may be stated unless the Minister has permitted otherwise.

During the preparation of the bylaw, provincial agencies will have had several opportunities to advise the local government of any concerns or interests they may wish to see considered in it. Local government is expected to either accommodate these matters in the bylaw or if there is a difference of opinion, seek a resolution with the agency concerned. The Ministry will assist if necessary.

As a rule, unless very unusual circumstances exist (e.g., threat to public safety), the Ministry will not refuse to aprove a bylaw on the basis that it is contrary to provincial policy or the provincial interests **unless these concerns were raised during the bylaw preparation stage.** Where a ministry discovers problems with a rural land use bylaw after it has received 3rd reading, the Ministry of Municipal Affairs and Transit may request that appropriate amendments be made to accommodate the concerns at the earliest opportunity following its adoption.

(d) The rural land use bylaw must fulfill the intent of the Act by providing a sound, rational basis for future development. This will include a review of the following criteria:

(i) Does the bylaw provide a rational and realistic framework for orderly growth and development?

(ii) Is the bylaw internally consistent? Are policies compatible with one another and with plan's objectives? Are regulations consistent with policies and objectives?

(iii) Are the bylaw policies supported by adequate background studies or reasoned justification?

(iv) Is the bylaw understandable in terms of wording and format?

(v) Is the bylaw compatible with the official plans or rural land use bylaws of adjacent municipalities and regional districts? In the absence of existing plans or bylaws, is the bylaw acceptable to adjacent jurisdictions, or are there unresolved disputes?

(vi) Is the bylaw compatible with the ecomonic strategy plan or waste management plan ,if any?

4. Conclusion

The above discussion on provincial interest is provided as a guide to local government on the types of matters considered by the Minister and the Ministry when reviewing regional district rural land use bylaws for approval. It is not intended to be all inclusive; rather, it is a general summary of provincial concerns. Matters not discussed above may be considered by the Minister in her review of any particular bylaw.

APPENDIX A

DESIGNATION REQUEST FORM

Province of British Columbia

Ministry of Municipal Affairs and Transit

DESIGNATION REQUEST

This form is to be fully completed and submitted with all requests for designation by the Minister of Municipal Affairs and Transit of:

- Community Plan Areas (S.944)
- Rural Planning Areas (S.950)
- Revitalization Areas (S.945 [4] [d])

MUNICIPALITY/REGIONAL DISTRICT:

MINISTRY USE ONLY

DATE RECEIVED | FILE No.

DESIGNATION NAME:

☐ COMMUNITY PLAN AREA S.944 ☐ RURAL PLANNING AREA S.950 ☐ REVITALIZATION AREA S.945 [4] [d]

GENERAL DESCRIPTION OF AREA AND MAJOR LAND USES:

REASON FOR DESIGNATION:

EVIDENCE OF PUBLIC SUPPORT: (if applicable)

ATTACHED ARE TWO COPIES OF A MAP WHICH CLEARLY SHOW THE BOUNDARIES OF THE AREA TO BE DESIGNATED ☐

MINISTRY USE ONLY:

COMMENTS:

RECOMMENDATION:

SEE MEMO TO FILE ☐ | AUTHORIZATION

Please type.

Indicate the type of designation requested.

Describe the area to be designated. For an OCP or RLUB, include: amount and density of settlement; type of community services, if any; extent of resource lands, especially Provincial Forests. For a Revitalization Area, indicate whether the area is also a Downtown Revitalization Area.

Briefly describe the objectives to be achieved by the OCP, RLUB, or Revitalization Designation or the reasons the Board has decided to proceed with a designation request at this time.

Note any evidence of public support received by the Board. This includes petitions, letters, recommendations from APC's, referendums, etc.

The maps should show legal parcels so that the boundary may be precisely determined. 1:50,000 maps are suitable for most OCP's and RLUB's. Revitalization areas will require a more detailed map.

Use additional sheets if necessary.

Province of British Columbia

Ministry of Municipal Affairs and Transit

SECTION 948 SUBMISSION FORM

REGIONAL DISTRICT:	OFFICIAL COMMUNITY PLAN BYLAW No.:

In the case of a new official community plan or major amendment, this form is to be submitted to the Ministry of Municipal Affairs and Transit after 1st or 2nd reading along with the referral of the plan to the Ministry for confirmation.

In the case of minor official community plan amendments, this form is to be submitted to the Ministry of Municipal Affairs and Transit with the bylaw referral.

This bylaw has been examined in accordance with the *Municipal Act*, section 947 (2) (a) and is consistent with:

	Circle one for each		
a. The most recent capital expenditure program	Yes	No	N/A
b. Applicable waste management plans	Yes	No	N/A
c. Applicable economic strategy plans	Yes	No	N/A

COMMENTS/ATTACHMENTS:

Signed by: _____ Title: _____

Name: _____ Date: _____

Province of British Columbia

Ministry of Municipal Affairs and Transit

BYLAW REFERRAL FORM

REGIONAL DISTRICT:	BYLAW No.:
	DATE:

You are requested to comment on the attached bylaw for potential effect on your agency's interests. We would appreciate your response within _____ days. If no response is received within that time, it will be assumed that your agency's interests are unaffected.

PURPOSE OF THE BYLAW:

GENERAL LOCATION:

LEGAL DESCRIPTION:

AREA OF PROPERTY AFFECTED: ALR STATUS: OCP DESIGNATION:

OTHER INFORMATION:

Please fill out the Response Summary on the back of this form. If your agency's interests are "Unaffected" no further information is necessary. In all other cases, we would appreciate receiving additional information to substantiate your position and, if necessary, outline any conditions related to your position. Please note any legislation or official government policy which would affect our consideration of this bylaw.

_____ _____

(Signature) (Title)

This referral has also been sent to the following agencies:

- ☐ Health
- ☐ Transportation and Highways
- ☐ Environment and Parks
- ☐ Municipal Affairs and Transit
- ☐ Agricultural Land Commission
- ☐ Lands
- ☐ Parks and Outdoor Recreation Division
- ☐ Agriculture and Fisheries
- ☐ Forests
- ☐ Energy, Mines and Petroleum Resources

☐ Other, please specify: _____

_____

PLEASE TURN OVER

RESPONSE SUMMARY

- ☐ Approval Recommended for Reasons Outlined Below
- ☐ Approval Recommended Subject to Conditions Below
- ☐ Interests Unaffected by Bylaw
- ☐ Approval Note Recommended Due to Reasons Outlined Below

Signed By: _____ Title: _____

Date: _____ Agency: _____

BYLAW SUBMISSION FORM

Province of British Columbia

Ministry of Municipal Affairs and Transit

BYLAW SUBMISSION FORM

This form is to be fully completed and submitted with all bylaws requiring approval of the Minister of Municipal Affairs and Transit pursuant to sections 948 and 973 of the Municipal Act.

The following documentation is attached as part of this submission:

- ☐ 3 copies of the bylaw
- ☐ Approval pursuant to section 57 of the Highway Act or ☐ Not required
- ☐ Approval pursuant to the Agricultural Land Commission Act or ☐ Not required
- ☐ Minutes of the Public Hearing
- ☐ Copies of Bylaw Referral Forms received from provincial agencies and adjacent local governments

REGIONAL DISTRICT:	BYLAW No.	MINISTRY USE ONLY: DATE RECEIVED	FILE No.

TYPE OF SUBMISSION: ☐ OCP BYLAW ☐ RURAL LAND USE BYLAW ☐ ZONING BYLAW ☐ SUBDIVISION SERVICING BYLAW

OWNER OF SUBJECT PROPERTY: APPLICANT:

PURPOSE OF BYLAW:

LOCATION OF SUBJECT PROPERTY:

AREA OF SUBJECT PROPERTY	PRESENT OCP/RLUB DESIGNATION	SUBJECT TO AGRICULTURAL LAND COMMISSION ACT: ☐ YES ☐ NO	FLOODPROOFING PROVISIONS IN EFFECT: ☐ YES ☐ NO

MINISTRY USE ONLY:

COMPLIANCE WITH MUNICIPAL ACT: ☐ YES ☐ NO

SECTION 946 EXAMINATION RECEIVED ☐ N/A ☐ LOCAL GOVERNMENT COMMENTS ATTACHED ☐ N/A ☐

COMPLIANCE WITH PROVINCIAL INTEREST: ☐ YES ☐ NO

COMMENTS AND RECOMMENDATION:

	RETURN TO PLANNER ☐	SEE MEMO TO FILE ☐	AUTHORIZATION

Please type.

Please use this checklist and enclose all relevant items with the Submission.

Indicate type of bylaw submitted.

Giver owner's and applicant's name.

Describe briefly what the purpose of the bylaw is. Indicate the current regulation, what is is being changed to, and why the change is being made (or what it will permit to take place). e.g.: rezone from Rural 1 to Residential 2 to permit construction of a two-family dwelling.

Give street address or approximate vicinity.

Use additional sheets if necessary.